IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.829 OF 2004

IN

NOTICE OF MOTION NO.763 OF 2004

IN

BCCC L.C.SUIT NO.908 OF 2004

Bharat Nagu Patole ..Appellant.

V/s.

Municipal Corporation & Anr. ..Respondents.

WITH

APPEAL FROM ORDER NO.830 OF 2004

IN

NOTICE OF MOTION NO.762 OF 2004

IN

BCCC L.C.SUIT NO.907 OF 2004

Ramdas Nagu Patole ..Appellant.

V/s.

Municipal Corporation & Anr. ..Respondents.

WITH

APPEAL FROM ORDER NO.831 OF 2004

IN

NOTICE OF MOTION NO.764 OF 2004

IN

BCCC L.C.SUIT NO.909 OF 2004

Jijabai Laxman Patole ..Appellant.

V/s.

Municipal Corporation & Anr. ..Respondents.

Mr.V.Ramkrishnan with Ms.Sunita Kalwar for appellants in all appeals.

Mrs.N.V. Walawalkar with J. Xavier for respondents in all appeals.

CORAM: V.C. DAGA, J.

DATED: 17TH SEPTEMBER, 2004.

P.C.

. All these appeals are directed against the common order passed by City Civil Court, Bombay while disposing of the Notice of Motion Nos.762 of 2004, 763 of 2005 and 764 of 2004 moved in L.C.Suit Nos.907 of 2004, 908 of 2004 and 909 of 2004 respectively whereby the interim relief of injunction came to be refused.

2. Having heard the rival parties and having

examined the facts and circumstances of the case and documents available on record, I have no hesitation to concur with the findings recorded by the trial Court. The trial Court has considered all the necessary facts and circumstances in para 16 of the impugned order. The view taken by the trial Court is a reasonable and possible view. For the reasons recorded in the impugned order, these appeals are dismissed in limini with no order as to costs.

3. At this stage, the learned counsel appearing for the appellant submits that the appellants are willing to vacate the suit premises on their own if two months time is granted to them, may be subject to their furnishing usual undertaking that they would vacate the premises immediately after a period of two months from today and that they shall not create any obstruction in removal of the structures in question. Considering the on going rainy season, the request made needs sympathetic consideration. Mr.Walawalkar appearing for respondent-Corporation also agreed that on humanitarian ground some time may be granted to vacate the premises and left it to the Court the question of determination of reasonable period. In this view of the matter, subject to the furnishing an undertaking by the appellants in each appeal, within

four days from today, they are granted two months time to vacate the suit premises. The Corporation shall not proceed to demolish the structure for a period of two months from today, subject to furnishing usual undertaking by the appellants. In the event of failure to furnish undertakings, it would be open to the Corporation to take immediate action.

4. It is needless to mention that after the expiry of two months from today if the appellants fail to vacate the premises as per their undertakings, it would be open to the Corporation not only to take necessary action for demolition but also an action for committing breach of undertaking given to this Court.

5. Appellants shall serve advance copies of the undertakings before filing it with the registry of this Court.

. Parties to act on ordinary copy of the order duly authenticated by the Associate/C.S.

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